

Remarks:

Reconsideration of the application is requested.

Claims 1-25 are now in the application. Claims 12-24 have been withdrawn from consideration. Claim 25 has been added.

Support for the subject matter of newly added claim 25 can be found in Figs. 1 and 2 of the drawings of the instant application.

In item 3 on page 2 of the above-identified Office action, claims 1-4, 6, and 9-11 have been rejected as being obvious over *Garcea* (US 4,086,063) in view of *Bestenreiner* (WO 94/18441) and *Wieres* (EP 0 470 113) under 35 U.S.C. § 103.

In item 4 on page 4 of the Office action, claims 5 and 7-8 have been rejected as being obvious over *Garcea* in view of *Bestenreiner* and *Wieres*, and further in view of *Bailey et al.* (US 4,050,903) under 35 U.S.C. § 103.

The rejections and the Examiner's comments have been considered. However, as will be explained below, it is believed that the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claim 1 calls for, inter alia:

An assembly for cleaning exhaust gas, comprising:

a metallic catalyst carrier body **without a tubular jacket** for installation in an exhaust pipe casing, said catalyst carrier body having a longitudinal axis, an interior with a plurality of flow paths and an outer surface; and

a substantially plate-shaped retaining element to be fastened in said exhaust pipe casing, said retaining element extending in a plane, said plane including an angle with said longitudinal axis of said catalyst carrier body, said retaining element having an opening formed therein for receiving said catalyst carrier body and a protrusion formed at said opening securing said catalyst carrier body in said opening, said protrusion surrounding only a part of said outer surface of said catalyst carrier body, **said retaining element fastened directly on said catalyst carrier body**, and said retaining element at least one of holding said catalyst carrier body together in a dimensionally stable state and substantially supporting said catalyst carrier body on its own.

In the third paragraph on page 13 of the response dated September 10, 2003, Applicants stated:

none of the applied references disclose or suggest a metallic catalyst carrier body **without** a tubular jacket. For example, the applied primary reference Garcea discloses a "container 21" for containing the catalyst carrier body.

(Emphasis original.)

The Examiner appears to agree. In the fourth paragraph on page 3 of the Office action, the Examiner stated that:

The modified apparatus of Garcea is substantially the same as that of the instant claim, but fails to disclose whether the catalyst carrier may be a metallic catalyst carrier body **without jacket tube** and having sheet metal layers forming channels.

(Emphasis added.)

The Examiner consequently applied the secondary reference *Bestenreiner* for teaching a catalyst carrier having sheet metal layers forming channels. However, the Examiner neither cited a reference nor took *Official Notice* for disclosing or suggesting a metallic catalyst carrier body **without** a jacket tube.

In the *Response to Arguments* on page 5 of the Office action, the Examiner stated:

Applicant's arguments filed 9/10/03 have been fully considered but they are not persuasive.

Applicants argue that the reference of Garcea does not show a protrusion formed at an opening. Such contention is not persuasive as Garcea does have a

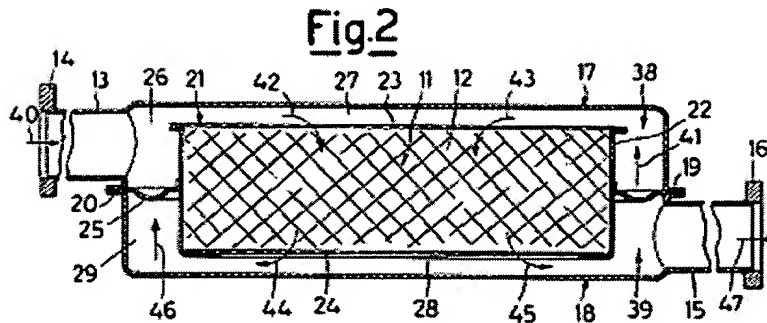
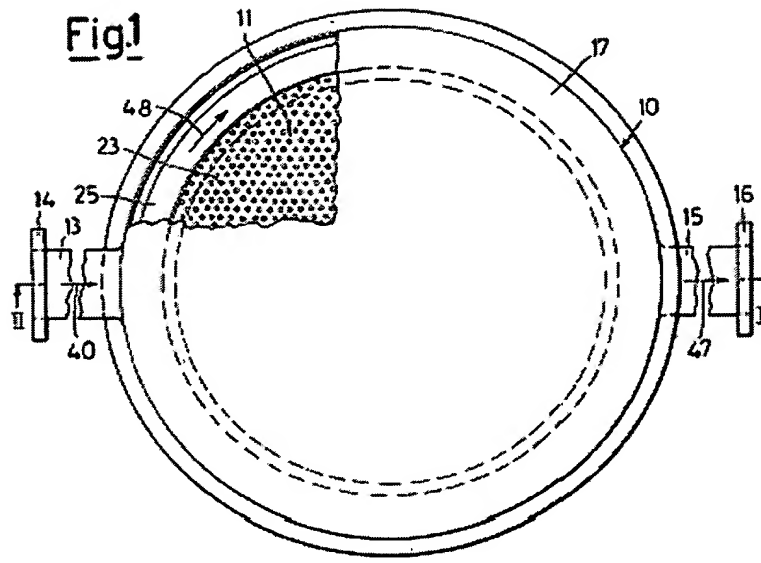
protrusion formed at the opening of the retaining element 25, 34 (see attached Fig. 2 of Garcea).

The Examiner did not address the fact that in the present invention - as recited in claim 1 and as argued on page 13 of the response dated September 10, 2003 - the retaining element is fastened **directly** on the catalyst carrier body **without** using a tubular jacket.

In col. 4, lines 49-55, Garcea states:

The granules of the catalyst mass 12 are placed in the interior of container 21, formed by an annular sheet metal band 22, the top circular wall of foraminous sheet metal 23 and a circular bottom wall 24, also of foraminous sheet metal, with the band 22 being welded to the peripheral edges of the walls 23 and 24.

The use of a container for holding the granules of the catalyst mass in Garcea can also be clearly seen in Figs. 1 and 2 of Garcea, reproduced below:



Applicants therefore believe that the Examiner is mistaken in maintaining that *Garcea* discloses a "retaining element fastened directly on said catalyst carrier body 11" (page 3, line 2, of the Office action).

It is accordingly believed to be clear that *Garcea* in view of *Bestenreiner* and *Wieres* do not suggest a retaining element fastened **directly** on a catalyst carrier body **without** using a tubular jacket, as recited in claim 1. Claim 1 is, therefore,

believed to be patentable over the art and because claims 2-11 and 25 are ultimately dependent on claim 1, they are believed to be patentable as well.

Considering the deficiencies of the primary reference *Garcea*, it is believed not to be necessary at this stage to address the secondary references *Bestenreiner* and *Wieres*, and whether or not there is sufficient suggestion or motivation with a reasonable expectation of success for modifying or combining the references, as required by MPEP § 2143.

Furthermore, considering the deficiencies of the references *Garcea*, *Bestenreiner*, and *Wieres*, it is believed not to be necessary at this stage to address the secondary reference *Bailey et al.* applied in the rejection of dependent claims 5 and 7-8, and whether or not there is sufficient suggestion or motivation with a reasonable expectation of success for modifying or combining the references, as required by MPEP § 2143.

Arguments as to the patentability of newly added claim 25

The protrusion of the present invention as recited in claim 25 does not surround (go completely around) the catalyst carrier body like a ring. In contrast, in *Garcea* the protrusion surrounds the catalyst carrier body like a ring. Hence, claim

25 is believed to be patentable independently of the patentability of the base claim.

In view of the foregoing, reconsideration and allowance of claims 2-11 and 25 are solicited.

If an extension of time is required, petition for extension is herewith made.

Enclosed is Counsel's payment in the amount of \$ 18.00 for the one extra claim in excess of twenty in accordance with 37 CFR 1.16(c).

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,



Markus Nollf (Reg. No. 37,006)

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Lerner and Greenberg, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101